

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BEVERLY TAYLOR,

Plaintiff,

v.

No. CIV 00-1395 BB/RLP

PATRICIA MADRID, ATTORNEY
GENERAL OF THE STATE OF NEW
MEXICO, in her individual and official
capacities; KATHERINE VINCENT, in
her individual and official capacities; and
SANDRA WATTS, in her individual and
official capacities,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court for consideration of a partial motion to dismiss filed by Defendants Katherine Vincent and Sandra Watts (Doc. 28). The Court has reviewed the submissions of the parties and the relevant law, and, for the reasons set forth below, finds that the motion to dismiss will be granted.

Defendants Vincent and Watts have moved to dismiss parts of Count I, and all of Count II, of Plaintiff's complaint. Defendants maintain the following: (1) Plaintiff's 42 U.S.C. § 1983 claim, insofar as it is based on violation of the New Mexico Constitution, must be dismissed because § 1983 claims provide relief for violation of federal law, not state law; (2) Plaintiff's § 1983 claim against Defendants in their official capacity must be

dismissed, because money damages may not be obtained from a state and an official-capacity suit is the equivalent of a suit against the state; and (3) all of Count II must be dismissed because Count II is a wrongful-termination cause of action, and Defendants' immunity, as state employees acting within the scope of their duties, has not been waived for wrongful-termination claims.

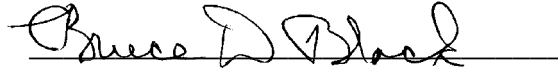
In response, Plaintiff argues as follows: (1) her claim for violation of the New Mexico Constitution is not brought under § 1983, but as a supplemental claim under state law; (2) her claim for damages is brought only against Defendants in their individual capacities, not their official capacities; and (3) Defendants are law enforcement officers, and immunity has been waived under the New Mexico Tort Claims Act for law enforcement officers who commit the tort of wrongful discharge.

The Court has already addressed these arguments with respect to Defendant Madrid. There appears to be no reason to reach a different result with respect to Defendants Vincent and Watts, simply because they are Assistant Attorneys General rather than the Attorney General. Therefore, the wrongful-termination claim and the state-law claim based on violation of the New Mexico Constitution will both be dismissed.

ORDER

Based on the foregoing, it is hereby ORDERED, ADJUDGED and DECREED that the motion to dismiss certain claims, filed by Defendants Vincent and Watts (Doc. 28), be, and hereby is, GRANTED.

Dated this 28th day of October, 2001.


BRUCE D. BLACK
United States District Judge

ATTORNEYS:

For Plaintiff:

Patrick D. Allen
Yenson, Lynn, Allen & Wosick, P.C.

For Defendant Patricia Madrid:

Judith C. Herrera
Herrera, Long, Pound & Komer, P.A.